



Morris K. Udall Foundation

CIVILITY, INTEGRITY, CONSENSUS

Native Dispute Resolution Network Skills Exchange Workshop Final Report

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“I work on many difficult environmental issues between tribal governments and other governments and I have learned much that I can apply in my future work. The workshop provided me a unique learning experience to understand skills and tools for working with Native peoples. In addition, the workshop participants were a collection of some of the most extraordinary people I have met on one occasion.”

“The Native Skills Exchange Workshop was an impressive beginning in a long-needed process of effective communications with Native Peoples. In the past, indigenous Americans have been expected to adopt western-European communications and conflict resolution paradigms. This workshop was visible recognition of the necessity to change that paradigm and develop viable cross-cultural methodologies. The presenters were experienced and effective, and the participants' exchanges were dynamic and thought provoking.”

“This workshop was the only workshop in my experience that brings together both representatives from federal agencies and Native communities to learn together, build relationships, and begin to work interculturally.”

Numerous partners assisted the U.S. Institute to make this workshop a success. The JAMS Foundation and the U.S. Institute underwrote the majority of the workshop expenses. The U.S. Institute provided 490 hours of in-kind staff time. The following organizations and federal agencies also provided crucial support and/or co-sponsorship.

- National Tribal Environmental Council (co-sponsor)
- Office of Collaborative Action and Dispute Resolution (CADR) in the Department of the Interior (co-sponsor)
- Office of Dispute Resolution, Federal Energy Regulatory Commission (co-sponsor)
- Ford Foundation (supporter)
- American Bar Association Dispute Resolution Section (supporter)

The workshop was organized into two tracks: 1) practitioner training emphasizing the exchange and expansion of practitioner skills drawing upon participant expertise; and 2) participant training in ECR processes focusing on the fundamental skills and essential knowledge needed by Network users to effectively engage in ECR processes and select an appropriate neutral when necessary.

Each of the two tracks was facilitated by teams of Network members selected through a Request for Proposals (RFP) issued by the U.S. Institute. As a group, the culturally diverse facilitator teams possessed collective experience in traditional and "western" dispute resolution processes and experience designing, developing, and delivering training for practitioners and potential process participants.

The workshop was the third predominantly Native forum organized by the U.S. Institute. As in past meetings, this workshop was structured to maximize relationship- and trust-building among participants. Key elements of the format included:

- Gathering the evening of August 16th for a welcome meal and introductions.
- Using a circle dialogue to invite everyone to introduce his or her self and share something about themselves.
- Encouraging active participation by members of the San Carlos Apache Tribe, including a greeting from Chairwoman Wesley-Kitcheyan, a blessing by a tribal elder, and participation of the tribe's environmental director in one of the workshop tracks.
- Convening the entire group for meals to share information and experiences and continue conversations from the independent tracks.
- Leaving evenings open and unscheduled for spontaneous activities.
- Concluding the workshop with reports from each track, which included song, poetry, and stories on key learnings and reflections.
- Closing the workshop with the circle dialogue to reaffirm the bonds between participants and bring closure to the workshop.

"...It was plain to see that having the opening circle dialogue meant all the difference in the world over the next two days as we interacted and learned new skills."

KEY LESSONS FROM EACH WORKSHOP TRACK

The practitioner track, titled **"Sharing the Wisdom--Best Practices,"** was facilitated by **Mary Margaret Golten of CDR Associates and Roberta Reyes Cordero, JD, of Interpersonal to Intercultural Communication.** In order to draw from one another's wisdom and build on the group's collective experience in this track, the facilitators encouraged interactive presentations, discussions and role-plays among the participants. A pre-workshop survey of participants underscored the group's strong desire to learn more about how to work better with Native Americans, and with all other cultures. This was especially important for inter-tribal environmental issues. Six Network member/participants made the following significant presentations in the Sharing the Wisdom track:

- The Past is Present: Discussion of Historic Trauma and its Ramifications – Roberta Reyes Cordero
- *Ho'opononua*: To Move with Intention in the Right Direction – Kalani Souza and Marina Piscolith
- Don't Everybody Talk at Once! – Carolyn Smiley-Marquez
- Cedar Canoe Story – Les McConnell
- Conflict Free Conflict Resolution – Curt Shuey

Several key lessons are summarized here:

- Historic trauma and chronic stress have an enormous impact on Native people's willingness and ability to participate in collaborative problem solving.
- Even in this very safe atmosphere, asking questions related to how a group does things or why, can be seen as aggressive and hostile—"the dominant culture has taken everything else and now they want my thoughts and my memories!" As practitioners we need to

listen in order to learn what people WANT to tell before beginning to ask questions or interview, and particularly before entering into problem solving.

- Reaching for “higher ground” is a concept that had great meaning for participants. Consider conflict resolution in the context of long-term relationships which come with extensive histories that need to be shared, and may require forgiveness and acceptance of responsibility prior to any intervention. In addition, in these situations the solution(s) to the problem are long term. Thus monitoring and evaluation, in culturally appropriate ways, is also critical to address if the solution is REAL for the parties.
- The role of privilege and dominance were explored, with all of their subtleties and tremendous power. What is unsaid and unrecognized leads to unintended assumptions and expectations. An honest exploration of identity, taking the time to really hear the voices of those with whom practitioners are working, is a key part of all of our work as practitioners.

Unifying lessons from this track might be:

- Approach all cultures with great respect;
- Take the time to learn how much you do not understand;
- Take the time to be taught; and,
- Understand that what you are seeing and hearing is only a representation of the many lives and generations which have gone before and form the culture you are attempting to understand.

The participant track, titled “**Building Relationships: Cross Cultural Communication and Negotiation**” was facilitated by Suzanne and Jon Townsend of **Agreements Work**. This track provided practical and concrete methods by which to communicate more effectively and to better manage and facilitate intercultural communication and conflict; increased individual awareness of culture and diversity and its impact on communication, conflict management skills, and culturally-appropriate dispute resolution models; and provided additional tools to work successfully as cross-cultural negotiators, facilitators and problem-solvers within diverse settings.

The facilitators in this track delivered a powerful teaching approach effectively describing tools, modeling approaches and creating space for participants to practice and incorporate key concepts. For example, this participatory track began with small group exploration of individual wants and expectations from the workshop. From this discussion a number of topics emerged and were used by the group to develop a shared agenda. This approach, reinforcing the concept of getting people’s ideas about what they need out into the open, is one way to work more respectfully as a cross-cultural problem solver and communicator. In essence, when we take the time to learn ideas and expectations from people, we demonstrate acknowledgement, respect and inclusion.

The following expectations came out of these first small group discussions:

- Develop strategies to connect those who “govern” with the cultures they “regulate”;
- Develop skills, including respect, to level playing fields;
- Learn ways to increase awareness of cultural misperceptions and historical inaccuracies;
- Discuss the role of paternalism and how it plays out in conflict and negotiations with tribes;
- Learn skills to deconstruct racism (institutional and individual) during negotiations;
- Resolve conflict among tribes;
- Find out more about what the U.S. Institute does. What kind of resource can it be?;
- Gain an understanding about how other people approach dispute resolution and how to apply new and different techniques;
- Find out how to build cultural sensitivity within the government;
- Obtain a better understanding of mediation and how to promote it within tribal government as an alternative, and as a viable choice and tool within a tribal law context;
- Learn more about environmental conflict resolution; and
- Meet new people working on similar issues and learn tools to use to resolve difficult environmental problems.

Over the course of the two-and-a-half days, the group explored the burning issues facing cross-cultural negotiators: ways to think about and describe culture; knowing and understanding your own cultural values; an overview of the ADR process; tools and concepts for cross-cultural negotiation; and approaches to building trust. Key concepts that emerged included:

- Culture can be described as “how we do things around here” and the only cultural universal is: “no surprises” (no one likes to be embarrassed/blind-sided/lose face).
- We don’t “have values,” we value; we don’t “have beliefs,” we believe. Knowing our own values is step one and good resolution includes acknowledgement of those values.
- Move from an ethnocentric (ego centric) approach to a multi-cultural approach.

- Listening and making the time/structure for listening are critical in order to build respect and relationships and to create a mutual “agenda” for negotiation and interaction.
- Describe, Interpret and Evaluate (DIE) - a process for keeping our minds and hearts open during negotiations and a tool to avoid jumping to assumptions.
- Explore what can and cannot be negotiated, use ground rules as a tool to structure a negotiation process.
- Listen for the common interests and the shared perspectives.

OUTCOMES AND BENEFITS

Based on participant feedback and conversations since August, it is evident that the workshop provided a safe space for cross-learning and sharing innovative dispute resolution techniques and approaches used in various cultures. The workshop also served to build and expand the skills and expertise not only of ECR practitioners but of individuals engaged in collaborative dispute resolution processes. The workshop served to heighten the awareness of potential users of ECR about Native practitioners working in the field and the availability of a wide array of resources, including the Native Network, thus making services and resources more available.

Consequently, this workshop and future workshops of similar design and intent have the potential for a long-range national impact on improving how tribes, Native communities, and federal agencies address disputes. In the larger view, the use of ECR, and, in particular, employing culturally-appropriate and respectful communication strategies, federal agencies and Native communities may reduce the number of cases before the courts. Innovative ECR processes present an opportunity for a fundamental shift in relations between tribes and federal agencies and can serve the larger public interest.

The skills exchange workshop greatly exceeded the U.S. Institute’s intended outcomes and benefits to participants. Although each of the outcomes is actually a long-range vision to be accomplished through continued work, the excerpts of participant feedback below offer insights into how each of the workshop outcomes were met.

- Diversify and enrich practitioner skills and tools resulting in increased capacity and innovation in the use of ECR.
I learned from the organized presentations, which I could tell were carefully developed and were clearly presented by the practitioners. The more seasoned presenters are truly the best in this country at what they do. And there were others who were trying new and innovative conflict resolution techniques. As well, I learned from the many exercises the trainers put us through. The role playing and problem solving at the Workshop were helpful for me to see things in a different way, and I could tell that others felt the same.

The Workshop created the opportunity for thoughts, knowledge and wisdom to be shared and tested among all participants from diverse cultural backgrounds. The impact of historic trauma, privilege, and behavior on interpersonal to intercultural communication and how people from different cultures view each other in a given situation added new depth to my understanding of intercultural conflict and problem-solving. From Native and Non-Native insights and support, it was helpful to deconstruct existing mediation models and to learn about new ones.

This event was worth the time out of our busy schedules to attend. It seems that there is so much more that needs to be done; it is times like this meeting that allow us to reflect and even think of different approaches. The uniqueness of Indian country because of its historical issues, needs to have approaches that are tailored to it, this time that was spent helped to look at that. Thanks for the time, wish we could do it more often so we can finalize some of these approaches to a more cohesive presentation for teaching others.

- Foster a greater understanding and expertise by Network users in the appropriate use of ECR and ADR, broadly, in matters between federal agencies and tribes in a way that reaffirms federal trust responsibilities to tribes.

The appreciation of and openness to new ideas led to an expanded range of insight and available tools with which to engage the issues that confront our integrating cultures continually. Even more significant was experiencing first-hand a taste of the energy of a group working single-mindedly towards a greater purpose.

Very rewarding: blew up agenda (developed a new agenda); had actual conflict - differences so there was an opportunity to see the theories and tools employed; good to see them used to make everyone feel okay. Now I got it, after what just happened here.

- An opportunity for tribes and federal agencies to gain a greater cultural awareness and competency through more effective communication, conflict management, and dispute resolution.

Overall, I learned a lot about skills, techniques and strategies in dealing with the negotiation process, which I am already putting to action. One other important part I learned, (even though I already kind of knew its importance) is the need to a build relationship with those you work with, that doing this before is an important key element in the negotiation process. It was helpful to hear that emphasized throughout the workshop. I also appreciated all the different scenarios tribes and agencies shared that were both positive and negative.

I found the workshop to be an extremely valuable experience. The workshop provided an outstanding mix of training in practical, universal negotiating skills and strategies combined with important lessons and perspectives concerning historic and cultural considerations unique to resolving environmental conflicts affecting Native Americans. If the workshop can be repeated in the future, I will certainly recommend it highly to

colleagues working on environmental issues in Indian country. If an "advanced" skills workshop can be offered, I would be thrilled to be able to participate again!

- Expand opportunities for tribal leaders and judges to implement culturally appropriate tribal ADR systems (community peacemaking, to mediation).

Although I myself have never thought of my work in terms of conflict resolution, I came to understand that I have been working with the fundamental principles involved in IBN (interest based negotiations) on a daily basis. I was delighted by the opportunity to have a formal model, through which I could think about and improve my daily work. While the program content was excellent, I should also mention here that what impressed me the most was the vast experience of my colleagues at the session: I learned so much from others by simply listening to examples that they presented from their own life work. As someone who lives and works in Hawaii, it was important for me to more fully understand the challenges that face Native peoples in North America, and how skillfully tribal leaders addressed those challenges and sometimes even turned them into opportunities for their communities. Needless to say, the warmth, the compassion, and the sense of resilience and strength expressed by those in attendance continue to buoy my spirits and will continue to give me the courage to continue our own work here in Hawaii. I can't thank you enough for organizing the session. It opened up a whole new world for me.

- Enhancement of Network recruitment and implementation by continued identification and contact with potential Network members and users.

With the recently concluded Skills Exchange Workshop, the Native Dispute Resolution Network began a new phase of its existence. Before the Workshop, the networking part of the Network had been a dream and a concept. It has now started to realize that dream, by bringing both Native and non-Native people who provide conflict management and dispute resolution services in Indian Country together with people who need those services. The wealth of experience, understanding, and wisdom shared at the Workshop is a monumental first step toward the goal of providing the most effective assistance available to people facing challenges in Indian Country -- whether those challenges are developing early collaborative processes, resolving a concrete disagreement, or something in between.

This experience challenged me to look at situations differently in my personal and professional life, and it set the foundation for future, durable relationships with other professional colleagues in this field.

Approaches to Future Workshops

Below is a sampling of the refinements the U.S. Institute is considering for future workshops, based on participant and facilitator feedback. The list is not comprehensive but provides some of the larger process changes that are important to future workshops.

- Extend the length of the workshop to three full days.
- Maintain approximately the same group size (~30 people) and include participants from states, local governments, environmental groups, as well as Tribal and Federal governments, along with community members—all those who deal with environmental conflict in Indian Country.
- Develop the workshop along a continuum; provide this basic workshop again in several venues before developing an advanced session.
- Consider a single workshop track rather than two run in tandem. Alternatively convene one track a few days before the other. Or, create a segment for “open space” sessions wherein the two separate tracks can intermingle around small discussions of issues of interest to all.
- Make the agenda more flexible, explore the trade-offs in cost and time for lunch breaks where participants get lunch on their own rather than have lunch as a group.
- Design sessions that create opportunities for interveners to show how they work with the situation.
- Include sessions for process participants to describe what worked and what did not work with intervention situations in which they have participated.
- Include more actual cases, experiences and situations for people to explore and approach from different angles.
- Have a “host tribe,” with whom participants can interact and learn.
- Include the option of providing pictures with the biographies—as well as some sense of where people are from—to help accelerate the relationship-building phase.

PROJECT BUDGET

The anticipated costs to deliver the workshop were \$66,800. Through effective negotiations with the host hotel and fiscal prudence the actual workshop costs totaled \$53,801.89 (excluding time provided by U.S. Institute staff). Project funds underwrote the following:

- The development and delivery of the skills exchange sessions by two teams of Network facilitators/trainers.

- A portion, 5 percent of total hours, of U.S. Institute labor in planning the training sessions, (490 hours provided in kind).
- Direct travel support for 18 American Indian, Alaska Native, Native Hawaiian workshop participants including tribal leaders, representatives of Native American organizations, and Native practitioners whose participation would not be possible without travel and lodging support.
- Direct costs associated with the training e.g., facilities, food and beverage, phone, audio visual, etc.
- See Appendix C for a more detailed budget breakdown.

ACCOMPANYING DOCUMENTS

APPENDIX A. Compilation of participant reflections regarding the workshop.

APPENDIX B1. Summary report from "Sharing the Wisdom"

APPENDIX B2. Summary report from "Building Relationships"

Appendix A. Compilation of Participant Comments

Expressions of Appreciation and Post-Workshop Reflections
Native Skills Exchange Participants
August 2005

Mary Lou Soscia

I would like to thank the Native Skills Exchange Workshop sponsors and contributors tremendously for the incredible opportunity to participate in the San Carlos workshop. My participation in the workshop offered me the opportunity to experience tremendous personal and professional growth. I work on many difficult environmental issues between tribal governments and other governments and I have learned much that I can apply in my future work.

The workshop provided me an unique learning experience to understand skills and tools for working with native peoples. In addition, the workshop participants were a collection of some of the most extraordinary people I have met on one occasion. I left the workshop with an incredible network of friends and associates that will make my life much richer.

I greatly appreciate the work of Sarah Palmer, Joan Calcagno, and Pat Lewis at the U.S. Institute for Conflict Resolution for their hard work in organizing and managing this wonderful opportunity.

Jonathan Hook

The Native Skills Exchange Workshop was an impressive beginning in a long-needed process of effective communications with Native Peoples. In the past, indigenous Americans have been expected to adopt western-European communications and conflict resolution paradigms. This workshop was visible recognition of the necessity to change that paradigm and develop viable cross-cultural methodologies. The presenters were experienced and effective, and the participants' exchanges were dynamic and thought provoking. Thank you for inviting me to share in this project. I look forward to future developments!

Les McConnell

The Skills Exchange Workshop was a good learning session. It was very valuable information, presented in a manner that was general enough to be tailored to each practitioner's work. The more general approach to exchanging skills and knowledge requires each of us to take what we can and apply it to our individual needs. While some of it was abstract in its content, the fundamental elements can be applied to many aspects of ADR work.

The Facilitators are to be congratulated for organizing a very broad need into two days of focused work and communications. Thanks also to those who presented and gave of themselves both personally and professionally toward the goal of improving the Native Network for everyone.

It was evident that generous donations have been made by several sponsors in order to fund this event, the facilitators and to cover travel expenses for those who attended. Costs for such events and the task of planning all the details, travel and other accommodations is

something that often gets overlooked. Thanks also to the San Carlos Apache Tribe for the hospitality and special rates.

While some of the presentations were based on theory, and as such differ from the conventional Indian tribal government approach to learning about ADR, it is a good foundation upon which we can build.

Pablo Padilla

The recent Native Skills Exchange Workshop was a valuable experience for me personally as well as for the collective movement to better solve disputes in Indian country. Not only was I amazed at the overall talent at the Workshop--in terms of professional experience and mediation savvy--but I also was impressed by the way in which the Workshop was structured to maximize the exchange of that talent over the course of three days. I learned from the organized presentations, which I could tell were carefully developed and were clearly presented by the practitioners chosen beforehand. The more seasoned presenters are truly the best in this country at what they do. And there were others who were trying new and innovative conflict resolution techniques. As well, I learned from the many exercises the trainers put us through. The role playing and problem solving at the Workshop were helpful for me to see things in a different way, and I could tell that others felt the same.

This workshop needs to continue for at least two reasons: First, a few presentations that occurred at this second meeting of Native practitioners have convinced me that the methods and techniques we are exchanging are continually being refined and developed--some at a pretty sophisticated level. That incremental growth tells me there is something good and real going on at these gatherings. Second, the group represents a good cross-section of the profession, which tells me there are others in the professional who could benefit from future workshops. Given that there are no shortages of disputes in the field, it is imperative to give this network more vitality with continued training, networking, and reporting of successful (and unsuccessful) case studies; all this while allowing for the network's sustained growth. This, I think, will lead to a positive impact in the long run.

Loretta Stone

I enjoyed the conference greatly. I met new people and began building a new work relationship with one of the participants. I did not expect to gain as much knowledge as I did, but as always was pleasantly surprised. I truly am grateful for the experience. Thank you for deciding to have the workshop here in San Carlos.

Mike Rossotto

I would like to express my great appreciation for the opportunity to participate in the Native Dispute Resolution Network's August 2005 Skills Exchange Workshop. I found the workshop to be an extremely valuable experience. The workshop provided an outstanding mix of training in practical, universal negotiating skills and strategies combined with important lessons and perspectives concerning historic and cultural considerations unique to resolving environmental conflicts affecting Native Americans. If the workshop can be repeated in the future, I will certainly recommend it highly to colleagues working on environmental issues in Indian country. If an "advanced" skills workshop can be offered, I would be thrilled to be able to participate again!

Deborah Osborne

The Native Skills Exchange Workshop was an important event for Network members and a Workshop well worth repeating from time to time for practitioners. Speaking from the mind, the Workshop created the opportunity for thoughts, knowledge and wisdom to be shared and tested among all participants from diverse cultural backgrounds. The impact of historic trauma, privilege, and behavior on interpersonal to intercultural communication and how people from different cultures view each other in a given situation added new depth to my understanding of intercultural conflict and problem-solving. From Native and Non-Native insights and support, it was helpful to deconstruct existing mediation models and to learn about new ones. I left the Workshop refreshed, with a wealth of knowledge, more confidence and deeper friendships that I can rely upon to assist me and others in perfecting intercultural collaborative skills for joint problem-solving.

Speaking from the heart, the Workshop provided the intimacy for Native and Non-Native participants to make new and re-kindle existing connections and most importantly to grow as one. The format of the sessions face-to-face in the classroom, in the circle, at the table and in other safe spaces, which were facilitated by the wonderful ECR moderators and accomplished outside Native and Non-Native facilitators, set the tone for honest, heartfelt conversations. I am grateful to the efforts of ECR for having created the Network, those who participated in funding the Workshop, the trainers, and the Network participants, who all made this experience very rich.

Kathryn Lynn

With the recently concluded Skills Exchange Workshop, the Native Dispute Resolution Network began a new phase of its existence. Before the Workshop, the Network had been a dream and a concept. It has now started to realize that dream, by bringing both Native and non-Native people who provide conflict management and dispute resolution services in Indian Country together with people who need those services. The wealth of experience, understanding, and wisdom shared at the Workshop is a monumental first step toward the goal of providing the most effective assistance available to people facing challenges in Indian Country -- whether those challenges are developing early collaborative processes, resolving a concrete disagreement, or something in between.

Nedra Chandler

The days we all spent during the Native Skills Exchange workshop in Apache Country meant so much to me, to all of us there. And the perspectives, person to person warmth and acceptance, and the insights we shared there DO reverberate out into the world where we are all living and working. Thank you.

What do I mean by reverberations? Little things, big things. A few small examples follow. The very day I arrived in San Carlos I had a call from a tribal group that wanted some facilitation help from me, and, by the day I left San Carlos, with encouragement from Kesner, and because of the opportunity LAST year's gathering of the Network in Tucson gave me, I had hooked up with another native practitioner who would do the work with me, and I had agreed to gladly give away my time for this. I felt support and encouragement from that circle we had in San Carlos to do that too. It was good.

Another small example from just yesterday: I was talking to a Yakama staff person and an EPA official – both of whom are coming to a meeting of tribal officials and leaders later this month. As we prepared for a segment of their day when the group intends to do some joint planning with EPA, we talked about culture as “the way we do things around here” and ways to build a bridge to a shared way of “doing things around here.” It made sense to them both, and I felt Jon Townsend’s presence in the conversation as if he were there helping move the situation to a better place.

Thank you so sincerely, again, for the time and energy you put toward last month’s skills exchange. Thanks to the Institute, and to Mary Margaret and Roberta, and Jon and Suzanne, and the Jams Foundation, National Tribal Environmental Council, CADR, FERC, Ford Foundation and The ABA Section of Dispute Resolution. Of all the things the US Institute has a hand in right now, this one, this nurturing role for the Native Dispute Resolution Network, is such worthy, inspiring work – as sweet as that song Kalani composed. Let’s make certain it goes on. Thanks again.

Matthews Hamabata

Thank you, once again, for organizing the Native Skills Exchange Workshop.

The content was wonderful: although I myself have never thought of my work in terms of conflict resolution, I came to understand that I have been working with the fundamental principles involved in IBN (interest based negotiations) on a daily basis. I was delighted by the opportunity to have a formal model, through which I could think about and improve my daily work. While the program content was excellent, I should also mention here that what impressed me the most was the vast experience of my colleagues at the session: I learned so much from others by simply listening to examples that they presented from their own life work. As someone who lives and works in Hawaii, it was important for me to more fully understand the challenges that face native peoples in North America, and how skillfully tribal leaders addressed those challenges and sometimes even turned them into opportunities for their communities. Needless to say, the warmth, the compassion, and the sense of resilience and strength expressed by those in attendance continue to buoy my spirits and will continue to give me the courage to continue our own work here in Hawaii.

I can’t thank you enough for organizing the session. It opened up a whole new world for me.

Irenia Quitiquit

I would like to take a moment to share my impressions of the "Building Relationships" component I participated in. First, the trainers for this workshop were excellent, both trainers came across as very skilled and experienced in this area of work. It was apparent that both trainers have experience and dealt with every type of dispute in negotiation there is, which was impressive. One of the areas that could have been more built upon was more participation among the attendees within the workshop in sharing their comments and ideas on native disputes, etc. Perhaps more time for one-on-one sessions could be developed in future curriculum or perhaps just acknowledging in the workshop notice or before the workshop begins that active participation is needed. Some people didn't say absolutely nothing, except for introductions. I was looking forward to hearing, especially from the tribal folks their comments, ideas, and thoughts when it comes to disputes. It is always hard to grasp and learn so much information in 2 days, but I believe for the amount of time we

have, the Institute did a good job in providing informative educational material and a good amount of discussion time.

Overall, I did feel learned a lot about skills, techniques and strategies in dealing with the negotiation process, which I am already putting to action. One other important part I learned, (even though I already kind of knew its importance) is the need to build relationship with those you work with, that doing this before is an important key element in the negotiation process. It was helpful to hear that emphasized throughout the workshop. I also appreciated all the different scenarios tribes and agencies shared that were both positive and negative. One area that I do see becoming a wider issue in Indian Country is the development of more disputes between tribes becoming more and more public, especially in the area of aboriginal territories, of course, that's just my view.

I would like to thank the Institute for putting on this excellent workshop and to those in your organization that helped in coordinating and organizing it, an excellent job well done. I look forward to participating in other future workshops put on by the Institute for Indian tribes.

Curt Shuey

I want to express my great appreciation to the sponsors of the recent Native Dispute Resolution Network Native Skills Exchange Workshop held in San Carlos, Arizona. I don't know how best to convey the spirit that was generated during those days. A group of diverse individuals – many feeling intimidated and unsure of why they were there – formed a unity of purpose that made room for differences and variety without opposition and criticism. Friendships were created and strengthened into a network of connections that will magnify our ability to be useful in our work. The appreciation of and openness to new ideas led to an expanded range of insight and available tools with which to engage the issues that confront our integrating cultures continually. Even more significant was experiencing first-hand a taste of the energy of a group working single-mindedly towards a greater purpose. This transformation culminated in a closing circle with deeply meaningful words, tears, laughter, and hugs rarely experienced outside of family. It is this unified spirit in Native tradition that we all must recapture. Just knowing that this kind of community culture is possible encourages us to strive to recreate it in our own circles where we live and work. I realize the difficulty of translating this all into the kind of short-term, bottom line results that are the focus in many boardrooms, but rest assured that your encouragement and material support is indispensable as it serves us in our efforts to serve others. Thank you.

Dexter Albert

I hope this letter conveys my true appreciation and expressions of gratitude to you, Joan Calcagno and Pat Lewis from the Institute, as well as the facilitators Mary Margaret Golten, Roberta Reyes Cordero and Jon and Suzanne Townsend. The time we spent together as guests of the San Carlos Apache Nation in mid-August during the inaugural Native Skills Exchange Workshop was unimaginable. I have never felt so moved by the power and energy created at such an event. Even though we experienced two days of intense information-sharing and networking, I left longing for more. This experience challenged me to look at situations differently in my personal and professional life, and it set the foundation for future, durable relationships with other professional colleagues in this field.

Lastly, I also extend my heart-felt warmth to those sponsors who made the event possible, including the JAMS Foundation, the National Tribal Environmental Council, the Office of Collaborative Action and Dispute Resolution, the Federal Energy Regulatory Commission, the ABA Section of Dispute Resolution and the Ford Foundation. All of this wouldn't be possible without their support. More particularly, my presence might not have been possible without the travel reimbursement afforded me and my small, young company. Again, I was honored to be a part of the workshop and I look forward to future endeavors with the Institute and the Native Dispute Resolution Network.

Kesner Flores

Thanks to the Native Skills Exchange Workshop sponsors and contributors. This event was worth the time out of our busy schedules to attend. It seems that there is so much more that needs to be done; it is times like this meeting that allows us to reflect and even think of different approaches. The uniqueness of Indian country because of its historical issues, needs to have approaches that are tailored to it, this time that was spent helped to look at that.

Thanks for the time, wish we could do it more often so we can finalized some of these approaches to a more cohesive presentation for teaching others.

Judith Wood

There is no way to communicate the value I received as a result of being a participant. The opportunity to network and share experiences with other professionals in this field was worth much more than I can express in a simple note. The location, amenities, scheduling, topics and workshop facilitators were all excellent. I certainly hope we will be able to meet again under similar circumstances in the near future. Thank you again, and please relay my appreciation to the fine people who sponsored this event.

Margaret Cook

Thank you for allowing me to take part in your workshop. I am not sure how I ended up there however as things transpired it was just the place for me to be.

As I continue to work in the Environmental Protection world I find that increasingly more non-tribal people have begun to take the leadership roles for the American Indian. I see a similar thing happening even in the tribal Casino's. As one individual mentioned to European visitors who wanted to see the Indians on the reservation and her response was "well then, we can just go downstairs to the janitor's work station.

I am not sure whether this is bad or good for Indian Country but for the Indian person it is difficult to be cast into the subservient role within tribal professional life, ensuring that the ceiling become, what I refer to as the moccasin ceiling. In other words an Indian person can only make it, even within tribal agencies, only as far as you can jump with your moccasins on. And that is not very high since we seldom allow ourselves or are even encouraged to wear our moccasins. For the non-tribal person it is a wonderful opportunity to make a name for themselves within a fairly small pond. A non-tribal professional can make it to the top quickly with little or no competition.

As I watch this happening I feel lost as to what is happening to the Indian person in me. I feel confused, frustrated, lost and often very alone. Since I personally do not like to stay quiet and still and allow myself to be passed by, I then begin to get very angry, but I am not able to direct the anger.

The course that you offered brought to me an opportunity to look closely at the Indians around me and within me and know that we have not changed. We are still Indian at heart and that is OK and to discuss ways to keep those values alive and in our efforts to be the masters of our destiny.

I deeply appreciated the efforts of the facilitators, host and those involved in giving myself and others the opportunity to network and learn new ways to solve our problems as well as teaching others.

And most of all I would like to thank Leigh Price for his persistence and perception to know that we needed this.

APPENDIX B1. Summary Report From "Sharing the Wisdom"

SHARING THE WISDOM—BEST PRACTICES

Mary Margaret Golten, CDR Associates and

Roberta Reyes Cordero, Interpersonal to Intercultural Communication

**Joan Calcagno, Pat Lewis, and Sarah Palmer,
U.S. Institute for Environmental Conflict Resolution**

**San Carlos, Arizona
August 17 & 18, 2005**

Introduction

This workshop track emphasized the exchange and expansion of practitioner skills, drawing upon the expertise of practitioners versed in both traditional and “western” dispute resolution methods. The purpose of the program was for participants to assist one another in understanding and implementing improved culturally relevant intervener skills and techniques. Leaders of this session facilitated participant exploration and exchange of Native and “western” methods. Thirteen people, including professional mediators and facilitators, federal officials and attorneys, attended the *Sharing the Wisdom* workshop track.

Some of the areas of focus were:

- The meaning of culture, how it can be described in practical terms, and how this affects the problem solving process
- How culture affects our communication attitudes, beliefs, behaviors and negotiations
- How to minimize stereotyping and maximize cross-cultural perception during negotiations
- How to maximize the use of collaborative negotiation in cross-cultural negotiations
- Ways of understanding culturally different nonverbal behavior

- How to identify and work with language and behaviors that are culturally sensitive
- How to understand our own cultural biases in communication and problem-solving
- Ways to work with competing values among parties and resolve differences
- How to recognize, examine, and improve the “intent and impact” of our actions and behaviors

The Approach to “Sharing the Wisdom” – The Questionnaire

As the lead facilitators looked at the goals of the program (as stated above), they realized this experience would be most valuable as a dialogue rather than a formal training program. Thus, the objective was for everyone to contribute—basically for us to train one another.

Participants received a questionnaire from the facilitators prior to the workshop asking what they most wanted to learn and to teach. The facilitators also asked them:

- what steps do they take, prior to working with parties in conflict, to acquaint themselves with culture and values;
- how does this help to prepare parties to assist (and to be assisted!) in these situations;
- how do they approach disputes that are highly polarized or intractable due to culture or values clashes; and,
- what do they see as cues that they, the practitioners, are becoming aligned with one party or side to the dispute, and what steps do they take in that situation?

The facilitators received enlightening and educational feedback from the surveys. Regarding pre-mediation work, everyone emphasized meeting with stakeholders in person, on their own turf wherever possible. Virtually everyone emphasized the importance of doing research (regarding parties’ decision making processes, their interests, their cultural identities, even identifying cultural “guides”) and avoiding preconceptions. Many people emphasized the importance of including ceremony—tailored to the cultural backgrounds of the various parties.

A particularly insightful comment regarding preparation of yourself, as intervener, and the parties involved was to help the parties see and understand the subconscious choices that they are making, to embrace conflict or to search for common ground.

Another person discussed the use of the agenda, as a behavioral as well as a substantive tool, to deal with expectations.

The participants had dozens of creative ideas for dealing with impasse, which indicated to us their level of skills and comfort with this topic. Most endorsed private meetings with parties. Others discussed using ground rules and ways of engaging traditional or cultural approaches to option-generation, addressing stereotyping openly and without blame, and consistently helping parties to be their very best selves.

Most of the participants agreed that we all have our own biases. Creative ways of noticing them included watching our bodies for physical clues as well as asking the stakeholders to give us feedback on whether we are seen as impartial. If we are more drawn to one side of the conflict, we should listen more, ask more questions, focus harder, and remember we are NOT decision makers. It is also important to try to access a sense of humility and ask for help from others.

Overwhelmingly, people wanted to learn more about how to work better with Native Americans, as well as with all other cultures. This was especially important for inter-tribal environmental issues.

From that data, the facilitators designed the two seminar days with the key assistance of six participants who offered to make the following significant presentations:

- The Past is Present: Discussion of Historic Trauma and its Ramifications
- *Ho'opononua*: To Move with Intention in the Right Direction
- Don't Everybody Talk at Once!
- Cedar Canoe Story
- Conflict Free Conflict Resolution

The two days were extremely participatory from the start of the first day, characterized by open and spirited conversation. Introductions, as well as all discussions were held in a circle, beginning with the question: *What can we do to help to help each of us get what we want out of the session?*

After people discussed this introductory question in pairs, they introduced one another and summarized their initial dialogue. Regarding what people wanted from this session, there was a good deal of consistency in the desire to learn from each other using our process (an analogy to the ADR—Alternative Dispute Resolution—process) “to work our way up to wisdom,” in understanding cultural sensitivity and in working constructively to resolve conflicts. Several emphasized their goals of working

holistically, learning the culture of private industry as well as that of tribal communities and of the federal government. There was an interest in examining the way we move from an advocacy role to that of an impartial (if not neutral) intervener. We were all asked to challenge our assumptions, to make this workshop a “campfire,” where we could give and hear critique and feedback openly and safely.

An Overview of the Presentations and Some of Our Key Learnings

“The Past is Present: Discussion of Historic Trauma and its Ramifications” really served as the foundation for this program. Roberta Reyes Cordero presented the physiology of stress, explaining the relationship of stress and trauma on our bodies and our relationships as well as on our abilities to understand and deal with conflict. A key and shocking piece of Roberta’s presentation was the negative effect that a crisis and our physiological responses to it have on our problem-solving and reasoning ability. This has enormous implications to all of us involved in dispute resolution.

Roberta also presented the concept of “historic trauma,” based in great part on the work of Maria Yellowhorse Braveheart, of the University of Colorado in Denver, as well as others. To summarize an immensely complex and important topic: massive group trauma—such as that endured by Holocaust victims and Native Americans, where 95% of the indigenous populations of the Americas disappeared—causes a constellation of ongoing multigenerational responses rarely understood by those not a part of the group experiencing the trauma. In order to bring people of such differing worldviews and experiences together, a much more intentional effort to bring about deeper understanding is critical.

One particularly effective and moving moment occurred when Roberta asked all of one small group to disperse except for one person. That lone person reported strong feelings of isolation, loneliness, confusion and discomfort in that moment. This exercise poignantly demonstrated, and allowed participants to actually feel, what so many tribal people know so well—what it is like to have your tribe gone, your family dispersed, your way of life disrupted and changed so dramatically.

Of all of the original goals of this workshop, that of minimizing stereotyping and maximizing cross-cultural perception as we address conflict was the most specifically addressed in Roberta’s presentation. We also learned a great deal about how the experiences that groups (as well as individuals) have endured in the past affect their communications, attitudes, beliefs, and behaviors in any negotiation situation. As an

example, when an agency is attempting to build trust in Indian Country, unless they deal with the past, they are unlikely to achieve a great deal in the present.

Kalani Souza and Marina Pischolish then presented their evolving understanding of a powerful approach to problem solving called *Ho'oponomua*, based on the traditional Hawai'ian practice of *Ho'oponopono*, translated as “setting things to right.” The subtext to their approach (*Ho'oponomua*) is “to move with the intention in the right direction.” That direction is also defined in the book “Reaching for Higher Ground in Conflict Resolution: Tools for Powerful Groups and Communities” which Marina co-authored.

Their description of *Ho'oponomua* began by modeling an opening ceremony – the setting of intentions, which can be used as part of conflict resolution process. The ceremony began with the question designed to allow participants to set their intentions: “who do you serve and who do you fail to serve in your practice, by your biases and your limited skills?” Kalani then went around the circle with a bowl of water, the physical manifestation of the spirit. Participants stated their intentions (their answers to the question Kalani posed), which were then “poured” in to the collective water. Typically at the end of the ceremony, water is poured back out to all the participants and everyone drinks at the same time.

The traditional practice of *Ho'oponopono* was described – along with Marina and Kalani's understanding of how they can use its wisdom to help people to build shared understanding and expectations for a process of working together. Kalani and Marina are in a continuous process of incorporating aspects of the traditional *Ho'oponopono* process into their *Ho'oponomua* process – what Marina calls “dancing on the edges”.

These two powerful presentations—on historic trauma and *Ho'oponomua*— concluded the first day of the program. They focused the group on the complexities and nuances of culture and how critical it is to understand “how things are done” in the cultures with whom a mediator/facilitator might be working. In addition, the *Ho'oponomua* discussion raised our sights to look both deeper and more broadly at what we might achieve in conflict resolution processes. One of our original goals was to learn “to recognize, examine, and improve the ‘intent and impact’ of our actions and behaviors” (as conflict resolvers). This important discussion of “reaching higher ground” as a key objective in working with conflict was repeated frequently during the rest of the program.

In “**Don’t Everybody Talk at Once,**” Carolyna Smiley-Marquez offered us a diagnostic tool which was a systems model for understanding what is really being said. She had us participate in a challenging group of role plays, with the goals of:

- Identifying and experiencing how voices play out—especially when people are in conflict;
- Discussing how voices are valued differently;
- Reviewing ways that this applies to Native Americans in conflict situations; and,
- Applying a tri-level model to examples and to mediation exercises—looking at the individual, group and systems levels as we attempt to really hear people’s voices.

Her message that what we say on the outside doesn’t always reflect the voices that are speaking in the inside (or those which are heard by others) was illustrated in short videos.

Another gem in this presentation echoed Marina’s prior discussion of the subtle and powerful place of privilege in our work. One of Carolyna’s messages that remained with many of us is the fact that how we are seen by others has a great deal to do with what we understand to be our group identity. When we are in the dominant group, we are frequently unaware of another’s identity. However, those who are in a subordinate group are generally extremely aware of differences in status or identity. Also, when attempting to deeply hear voices, she noted that it is helpful to understand that subordinates tend to talk out of a sense of group, while dominants tend to talk out of place of their individuality.

Carolyna’s very rich presentation engaged each member of the group in playing the role of someone very unlike ourselves—in age, class, race, gender, profession, for example—to really experience what it means to be “different.” This very specifically helped us “to identify and work with language and behaviors that are culturally sensitive,” which was everyone’s hope for the program.

Les McConnell’s “**Cedar Canoe Story**” was a fascinating true story of Les’ involvement in resolving a conflict dealing with the Endangered Species Act in a situation with a Pacific Northwest Indian tribe. The Tribe had requested, in writing, a western red cedar tree for a canoe. The Tribal government has a treaty with United States and their rights had been reserved by statute since 1855. The western red cedar is a valuable resource to the tribe and has many uses touching every aspect of their lives. It is the single most important species supporting their traditional lifestyle. In this case the cedar log had to

be at least eight feet in diameter and was to be used to construct a canoe—fulfilling one of the most essential aspects of the Tribe’s cultural heritage.

Unfortunately, the U.S. Fish and Wildlife Service (FWS) felt they had an obligation under the Endangered Species Act (ESA), to protect the marbled murrelet (and its associated habitat). The ESA, enacted in 1973, does not mention tribal rights, and thus technically does not affect those rights. However, that was the rationale first used by FWS to reject the Tribe’s request.

Before he described his own story and role in the resolution of the tribe’s need for a specific tree, Les divided participants into small groups and asked them to see his story through the eyes of the FWS, tribes, and the land managers (US Forest Service). From time to time during his description of this conflict, Les would ask the groups to think about what they would have done, what they saw as their sources of power, what their concerns might be in the situation. This combination of role playing, with Les’ dramatic presentation of the facts, allowed participants to experience the complexities of the political situation in a very tangible way.

Les saw his role evolving from mediator to educator here, dealing with the classic issues of unclear data and science (did the bird actually NEED that specific tree?), lack of agreement within the agencies as well as between the agencies, and what he saw as misinterpretation of the tribe’s treaty rights. His very disciplined, consistent, respectful and strategic approach in the face of such complexity had us all mesmerized.

An inability to deal with culture—that of the two Federal agencies as well as the tribe—caused the initial deadlock in this story. Les’ ability to understand where the rules and regulations were less clear on this issue as well as his sensitivity and real understanding of both cultures allowed this negotiation to finally succeed.

Finally, Curt Shuey presented a deeper look into our field, calling it “**Conflict-Free Conflict Resolution (CFCR)**.” His definition of CFCR is of an approach that enables people to choose and develop perspectives, attitudes and skills that lead away from conflict and polarization, toward a unified and reality-based engagement of issues.

Curt described the choices we make in looking at a particular issue through the lens of a specific worldview. Among the choices are authoritarian, power struggle, and consultative worldviews. In the consultative approach, people would consciously consider actions before reacting, look for the greater good (or “higher ground,” as in *Ho’opononui*), let go of the need to be “right,” seek to understand first and then to be understood, look for truth/the right way, never withhold information, try not to give or

take offense, support the group's decision even if it is not their own, and encourage the most positive qualities in others.

In this process, the intervener's role is different from a mediator's. S/he is first an educator, helping the parties to prepare for the process. When the intervener enters the process, s/he stays on the outskirts, watching for points of unity and signs of breakdown in the unity and will only step in, briefly, to call people back to the earlier discussion. There is no reframing of what people say and very little recording. People are not referred to as having sides – nothing is done to reinforce differences.

This very creative, "hands off" approach to working with people facing conflict really engaged the group's interest. It was the holistic approach to looking at a specific conflict that made it most culturally relevant to those familiar with tribal approaches to dispute resolution. The focus of the intervener is to seek the wisdom in the group, which is consistent with the other processes described by those most familiar with Native American processes.

CFCR was presented as a conflict prevention process—one which Curt believes may not be as applicable when parties have endured years of hostilities. This challenged the perceptions and assumptions of some of the professional conflict managers in the group. It also led to one of the very specific recommendations, below, that another workshop provide time for practitioners to explore, in role play situations, how different approaches to multi-cultural conflict resolution might actually work.

These summaries are only intended to give the reader a taste of the topics discussed in these two days. After each presentation, there was enthusiastic and dynamic conversation that enriched the lessons learned. Moving the group to the next topic was clearly the hardest job the facilitators had during the week!

Key Lessons from Each Presentation and Overall Unifying Themes for Our Practice

Many of those who participated in this workshop talked about breadth and depth—that our awareness was heightened, that we saw issues involving Tribes in a much brighter light. Some of the more specific gems that came from the program are summarized here:

- ◆ Historic trauma and chronic stress can have an enormous impact on people's willingness and ability to participate in collaborative problem solving.

- ◆ Even in this very safe atmosphere, asking some cultural questions can be seen as aggressive and hostile—“the dominant culture has taken everything else and now they want my thoughts and my memories!” We need to listen in order to learn what people WANT to tell before beginning to ask questions or interview, and particularly before entering into problem solving.
- ◆ Reaching for “higher ground” is a concept that had great meaning for all of us. We must look at conflict resolution in the context of long-term relationships which may come with extensive histories requiring letting go or forgiveness and acceptance of responsibility prior to any intervention. In addition, in these situations the solution to the problem is long term—so monitoring and evaluation are also critical, to know if the solution is REAL for the parties.
- ◆ The role of privilege and dominance were explored, with all of their subtleties and tremendous power. There is so much that is unsaid and unrecognized—which leads to unintended assumptions and expectations. An honest exploration of identity, taking the time to really hear the voices with whom we are working, is a key part of all of our work.

If one were looking for *unifying* lessons here, they might be

- ◆ Approach any culture that is different from your own with great respect;
- ◆ Take the time to learn how much you do not understand;
- ◆ Take the time to be taught; and,
- ◆ Understand that what you are seeing and hearing is only a representation of the many lives and generations which have gone before and formed the culture you are attempting to understand.

Recommendations for Future Workshops and What Might We Do Differently in Future Workshops

- ◆ People were eager for more of this kind of program—more conversation, more thinking and learning and exploring ways of working in depth with cross-cultural or multi-cultural conflict.
- ◆ We should look for participants from states, local governments, environmental groups, as well as Tribal and Federal governments, along with community members—all those who deal with environmental conflict in Indian Country.

- ◆ In working with interveners—whether for mediation or other forms of conflict management—it would be wonderful to see practitioners at work. One possibility is to set up a situation and ask several of the leaders in their communities and their fields to show how they work with the situation.
- ◆ Another possibility is to bring “clients” to meet with practitioners and for them to describe what worked and what did not work with intervention situations in which they have participated.
- ◆ We needed more time. There was a very strong feeling that the two days were rushed. Those who were immersing themselves in these very complex topics needed time to think together, to talk and debate and then think some more, without moving on to the next topic so quickly.
- ◆ The two concurrent sessions led to a sense of “missing something.” People wanted to interact with the other group, to hear what the others were thinking and struggling with, and to have joint sessions. If there are two tracks in the future, more time should be given for them to work together.
- ◆ It would be wonderful to have a “host tribe,” from whom we could learn.
- ◆ Having pictures with the biographies—as well as some sense of where people are from—would help accelerate the relationship-building phase.
- ◆ As we look at the nine goals we originally intended to achieve, we realize that this was an enormous challenge. We believe that these goals are still exactly what we wanted to and needed to address. The only caveat is that each requires a lifetime of work. These courses certainly move us closer—but the path is actually the goal. The fact that everyone wanted to work more and work harder after this program ended tells the tale!

APPENDIX B2. Summary Report From "Building Relationships"

Native Dispute Resolution Network

Building Relationships: Communication and Negotiation

Overview and Summary

By

Jon and Suzanne Townsend

Building Relationships: Overview and Summary

Section 1: Introduction and Purpose:

The purpose of this training was to increase the skills, knowledge and abilities of participants to work and communicate more effectively and problem resolve more productively in cross-cultural situations.

Jon Townsend and Suzanne Townsend shared the training and facilitation of this two-day workshop. Fourteen people attended the workshop, which was held in San Carlos, Arizona on the San Carlos Apache Reservation from August 17-18, 2005. During the two training days, and during the opening and closing ceremonies, the participants learned both from one another and from the facilitators, as they shared their experiences, strengths and advice about the various ways to work productively in cross-cultural situations.

Participants were all experienced negotiators and administrators, higher level staff or policy-makers, and all were active participants through out the workshop. The group as a whole was well balanced between those with experience working within tribal government or within Indian organizations, and those whose primary experience was with non-tribal governments or organizations that negotiated with tribes or tribal entities on environmental issues.

Section 2: What Happened?

Day One

After a round of introductions and an overview of the coming two days, we first discussed the purpose of the workshop, as it had been envisioned by the planners, using the purpose statement set forth above in Section 1. We then asked the participants to meet in smaller groups of four and five to talk about what they wanted and expected from the upcoming two days, within the context of the stated purpose of the workshop. We advised that we would then use the group's hopes and expectations combined with our agenda to capture relevant topics and to structure the next two days.

The following expectations came out of these first small group discussions:

- Develop strategies to connect those who “govern” with the cultures they “regulate;”
- Develop skills to level playing fields, including respect;
- Learn ways to increase awareness of cultural misperceptions and historical inaccuracies;
- Discuss the role of paternalism and how it plays out in conflict and negotiations with tribes;

- Learn skills to deconstruct racism (institutional and individual) during negotiations;
- Resolving conflict among tribes;
- Find out more about what the US Institute does. What kind of resource can it be?
- Obtain an understanding about how other people approach dispute resolution and how to apply new and different techniques;
- Find out how to build cultural sensitivity within the government;
- Obtain a better understanding of mediation and how to promote it within tribal government as an alternative, and as a viable alternative and tool within a tribal law context;
- Learn more about environmental conflict resolution;
- Meet new people working on similar issues and learn better tools to use to resolve difficult environmental problems.

One of comments that we made as facilitators was that the concept of getting people's ideas about what they need out into the open is one way to work more respectfully as a cross-cultural problem solver and communicator. In essence, when we take the time to learn ideas and expectations from people, we demonstrate acknowledgement, respect and inclusion. For the purposes of the workshop, the workshop then becomes "our workshop" and not solely the trainer's workshop. It is with this approach to working in cross cultural situations that we refined and tailored our approach to the groups' stated needs.

Following the discussion about gathering expectations and its importance as a visible way to demonstrate a cross-cultural measure of respect, the morning session continued.

Topics covered during the morning session included:

- Burning issues facing cross-cultural negotiators;
- Ways to think about and describe culture;
- Knowing and understanding your own cultural values;
- Looking at and reviewing cross-cultural value differences.

Following a general discussion on the importance of culture and knowing one's values, smaller groups were formed and the discussion focused on the questions posed on page 7 of the work book. The questions focus the participants on the general similarities and differences between

Native American and Anglo American negotiators and problems. The questions from the workbook are included here to provide the reader with a context for the small group findings:

Based on your experience as a problem solver and/or negotiator, **and generally speaking**, please discuss the following questions.

- What are the differences between Native and non-native negotiators/problem solvers?
- What are the similarities?
- How do these negotiators view the negotiation process?
- How is satisfaction (a win, or a sense of completion, or a sense of fulfillment) achieved? What does it feel like?
- What are the commonalities in how people look at conflict?
- What are the differences in how people look at conflict?
- Do you think there is a difference in how both groups view such terms as fairness and justice?
- What does this tell you about cross-cultural negotiations?

Please record your group's findings and prepare to share your findings with the other groups.

Group 1

Generalized Differences between Native and Non-Native Negotiators

Native

- More non-verbal
- Long range vision
(500 year environmental plan)
- Holistic
- Land=stewardship

Non-Native

- More verbal
- Short(er) range vision
(e.g., 10-30 year plan, based on current laws)
- Very detailed
- Land=ownership

Group 1

Generalized Similarities Among Native and Non-Native Negotiators

- We are all human
- We live on the same planet
- Some of our interests are the same
- We all have interests
- We are always communicating

Negotiator's View

- Long-range relationships
- Results oriented

How is Satisfaction Achieved?

- When all interests have been represented

What Does Satisfaction Feel Like?

- We have achieved mutual trust and respect
- Patience is key

Group 2

Generalized Differences in Native and Non-Native Negotiators

- Differences appear along educational, pedigree and resources
- Values and sense of time
- Authority and ultimate decision making
- Historical perspective and a sense of time
- Fairness and justice

Generalized Similarities in Native and Non-Native Negotiators

- We all have shared values and desired outcomes
- We all have values, even when they are different
- Both Natives and Non-Natives have group identities
- We are US citizens and we are global citizens

Group 3

What Are The Commonalities in How People Look at Conflict?

- Not sharing negative/conflicted issues
- Cloak of silence
- Lack of conflict resolution skills – cultural/historical

What Are The Differences in How People Look at Conflict?

- Most Non-Natives look at conflict as a bad thing
- Provides an opportunity to look at conflict for resolving issues
- Some people benefit from conflict – financially
- Some people deal with conflict individually and others view it as a collective action

The following topics were covered during the late morning and afternoon session of day one:

An Overview of the ADR process

- Diversity, negotiation re: native communities and federal entities
- Processes and terminology

Tools and Concepts for cross-cultural negotiation

- Two basic concepts for negotiators
- Heavy metal rules for communicators and negotiators
- The process for keeping our minds and hearts open during negotiations
- Three cross-cultural satisfactions for cross-cultural negotiations
- Importance of ground rules and when to negotiate the ground rules and what they should encompass.

(A note for the reader. For a thorough and thoughtful write up of the above topics, we refer the reader to a write-up by Hazel Apok, one of the participants in our group. She has captured the key points and lessons of the tools and concepts for cross cultural negotiators. It is no wonder that she was selected by the group to be one of three people who would report out what was learned and gained from the Building Relationship workshop track during the plenary session held on the morning of the last day.)

Day 2:

After a round of comments, and general debriefing of the preceding day, we worked with the entire group to identify the group members who would act as group spokespersons for the plenary session the following morning. Once identified, we facilitated a general discussion about what the group wanted to share with the other participants in the *Sharing the Wisdom: Best Practices* workshop track, and how the information would be gathered and shared.

Following that process, we explored the dynamics of the negotiation process that often takes place when there is a dispute involving the federal government and a tribe or tribes. This led to a discussion of the general governance of tribes, the role of chief spokespersons and negotiations that take place away from the table and off the record. This led to a group discussion regarding the role of tribal governments in representing the tribal community and tribal interest groups. This was an interesting and lively discussion about what occurs when a tribal interest group or groups believe that they are not being adequately represented by the tribal council during

negotiations. It was during this discussion that we made a point about “point of view”. That it was entirely possible that all of the advocates on this issue were right, in the sense of how they experienced this situation, and that if we all listened closely to the advocates for either side of this discussion, we could hear that they shared more common values and interests than not. And, it is that ability to listen for values; those that are common, those that are different (but not clashing) and those that clash, that provide the cross-cultural problem solver the necessary tools and POV in order to work more effectively as a cross-cultural problem solver. Perhaps the best example of this became evident at the reporting out session the following day when one of our group reporters said the group went off agenda for awhile during the second day, but the tools from the first day were put into use and he witnessed their application in a real life situation.

During the late morning and early afternoon session we continued the discussion of tribal governance and reviewed Federal Trust Responsibilities and Tribal Sovereignty and self-governance within the context of negotiation and relationship building. We presented an overview of the differences in ways of approaching conflict between tribal and non-tribal peoples, and different approaches to conflict resolution and the rule of law. We also discussed the following topics:

- Tribal/State Relationships
- Tribal Courts and Tribal Jurisdiction
- ADR in Tribal Courts

During the late afternoon session the group addressed the question of what worked for them in building or re-building trust.

Ways of building or re-building trust

- Getting park rangers and others to accept Native wisdom and to trust one another
- Healing
- Sharing experiences
- Being aware of different types of trust
- Placing an emphasis on building relationships
- Having social time for social interactions

Ways of building or re-building trust

- Share meals and food together
- Make no promises that you cannot keep
- Use the ground rules to build initial trust
- Build trust by getting to know one another
- Get biographies of the people at the table
- Listen for interests and values

Ask questions - don't make assumptions.

As part of this discussion, group members asked for advice about how to build trust in the mediator of a given process. A good discussion was held on the role of the mediator, how to dismiss a mediator, how to select a mediator, and how to check the trustworthiness of a mediator.

The last activity of the workshop was to review each group's expectations from the morning of the first day to see if the expectations were addressed to that group's satisfaction. The lesson for this review was a lesson for all practitioners in cross cultural situations. We should not assume that we have covered people's expectations, or their agenda items, or their concerns, without first taking the time to review the expectation again in light of the training and then determine if we had addressed the expectations to that group's satisfaction. It was determined that we did satisfy the various groups' expectations.

This brought us to the end of the day.

Section 3: Key Lessons Learned from the Workshop

1. The importance of the opening and closing circles;
2. The importance of eating together;
3. The need for pre-planning as a group;
4. The need for a flexible program design that can change to fit the needs of the participants;
5. The need for more interaction between the two tracks, if the tracks meet at the same time;
6. The need for more time for the Building Relationships workshop.

In addition to the above six points, I will refer the reader to the thorough and thoughtful write up by Hazel Apok, one of the participants in our group, which provides the reader with one participant's point of view on the key lessons learned.

Section 4: Recommendations

A. Structure and Content

Based on our interactions with the participants, their written and oral comments, and emails and information from those participants who passed on their written expressions of appreciation to the U.S. Institute, it appears that the content of the workshop was appropriate, useful and applicable.

Based on what we currently know (we have received seven written evaluations out of fourteen potential), we would change very little of the content. One of the content items that we would change is also a structural item and would impact the structure of the course and its length. It was noted in the *Suggestions for Improvement* that the ground rules would have been helpful for speaking during the session. In developing ground rules we would add some time to do this at

the outset, using this also as a learning exercise around the importance of culturally-appropriate ground rules that are jointly developed by the parties involved in a negotiation. This would result in group ground rules that are meaningful to the workshop participants and would leave participants with the ability to see the power and leverage that jointly developing ground rules brings in cross-cultural situations. Given our experience, we estimate this additional exercise would have taken between 60 to 90 minutes. We will address more of the structural issues and how we believe they impact course length later in this summary.

We believe that is clear from the participant comments, and from our experience with this workshop that we needed either more time, or fewer topics. Although both options are viable for future workshops, we prefer adding time to the workshop, so that participants gain as much as possible for their time. For this workshop, we planned an agenda that would provide most of the tools necessary for successful participation in a cross-cultural negotiation and for building relationships within that context. Over the course of two days we were not able to address everything on the agenda. One reason was because the level of interest was so high, that participants had many questions. In addition, participants wanted time to talk with one another – not surprising given the quality of the participants and the depth of their individual experiences. And finally, conversations around issues of governance and equity provided the participants and the trainers an opportunity to apply many of the tools and concepts from day one which in turn allowed for less of the original agenda to be covered. However, more “real time” application of the tools and concepts emerged and were applied in the moment.

It is our professional opinion that giving people fewer topics would not be as valuable as providing more time for people to work with the topics and explore them in more detail and allow for the occasional “off agenda” discussion. In our early discussions on the length of these two workshops, we also shared this approach, and all of the planners had originally hoped for more time. However, the logistics of travel time to the airport and flight schedules reduced the workshop times.

Workshop structure, as it relates to workshop time and activity will need to be addressed as it relates to the two different tracks. Comments like “...*more interaction between the two groups,*” and “...*the workshop could have been more effective by allowing all the participants to learn together instead of running separate tracks,*” were part of the input on our course improvement comments. Similar comments about having more time with the other participants were also evident in the Sharing the Wisdom’s *Suggestions for Improvement*. Although we do not believe that the two workshops can necessarily be successfully combined completely, it does appear that once the participants meet each other in the introductory circle, there will be a natural desire to continue that relationship in some fashion, and there will be frustration if there is not the ability to have meaningful interaction with the folks in “the other” track.

This is a structural aspect that will need more discussion. There are elements within both tracks that are complementary and elements which are unique to the set of learning objectives that characterized each track. If the length of the workshops were combined, it might be feasible to provide more interaction and joint learning sessions while still allowing participants to focus in on their more specific needs and interests. It might also be preferable to run the tracks separately at different time periods, and not raise the tantalizing possibility of more interaction at the outset.

B. What might USIECR do differently?

Our thoughts and suggestions about the procedural changes were thoroughly discussed in the telephone conference call of August 26th, and the suggestions were noted and recorded by USIECR. We understand that these suggestions will be made part of the overall evaluation so we will not repeat them here.

C. Were the outcomes the appropriate?

Given the input and feedback to date, the general outcomes were the correct ones. As has been noted in the background summaries of the participants, there was great depth in the experience and professional standing of the participants. Throughout the workshop the participants were engaged, they learned more than they had expected to, and both the trainers and the Institute received very high marks.

D. Using the workshop materials.

In general, it is important to note that in many cases the workshop materials contain outlines of broader concepts that were developed within the workshop through dialogue with and between the trainers and the participants. Absent the context of the people who participated in the workshop and without the facilitated expansion and development of the concepts as provided by experienced trainers through lectures, commentary and illustration, the workbook materials are simply the black and white portion of a very colorful rainbow that is only fully complete and meaningful when people and their voices are added to the equation.